



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

**GENERAL COUNSEL**


**APR 3 2009**

1200 New Jersey Ave. S.E.  
Washington, D.C. 20590

**MEMORANDUM FOR THE SECRETARY**

**THE DEPUTY SECRETARY  
THE CHIEF OF STAFF  
THE DEPUTY CHIEF OF STAFF  
ASSISTANT SECRETARIES  
SECRETARIAL OFFICERS  
HEADS OF OPERATING ADMINISTRATIONS  
THE INSPECTOR GENERAL  
CHIEF COUNSELS**

**FROM:**

  
Rosalind A. Knapp  
Acting General Counsel  
X6-4713

**SUBJECT:**

Ensuring Transparency of Registered Lobbyist  
Communications Concerning the American Recovery and  
Reinvestment Act

On March 20, 2009, the President issued a Memorandum for the Heads of Executive Departments and Agencies, entitled "Ensuring Responsible Spending of Recovery Act Funds." Consistent with the American Recovery and Reinvestment Act ("Recovery Act"), existing Department of Transportation ("DOT") statutes and regulations, and the President's Memorandum, DOT is committed to exercising its available discretion and judgment to help ensure that Recovery Act funds are expended for projects that further the job creation, economic recovery, and other purposes of the Recovery Act, and are not used for imprudent projects. Among other matters, the Memorandum imposes new requirements for "Ensuring Transparency of Registered Lobbyist Communications" concerning the Recovery Act.

Pursuant to Section 3 of the President's Memorandum, all DOT officials are subject to the following requirements with regard to registered lobbyist communications concerning particular projects, applications, or applicants for Recovery Act funds, as well as communications on general Recovery Act policy matters.

### **Communications Regarding Particular Projects, Applications, or Applicants for Recovery Act Funding**

- DOT officials **shall not** consider the view of a lobbyist registered under the Lobbying Disclosure Act of 1995, 2 U.S.C. 1601 et seq., (“LDA”) concerning particular projects, applications, or applicants for funding under the Recovery Act unless such views are in writing.
- Upon the scheduling of, and again at the outset of, any oral communication (in-person or telephonic) with any person or entity concerning particular projects, applications, or applicants for Recovery Act funding, DOT officials **shall inquire** whether any of the individuals or parties appearing or communicating concerning such particular project, application, or applicant is a registered lobbyist under the LDA. If so, the registered lobbyist **may not** attend or participate in the telephonic or in-person contact, but **may** submit a communication in writing.
- DOT officials **shall publicly post** all written communications from a registered lobbyist concerning the commitment, obligation, or expenditure of funds under the Recovery Act for particular projects, applications, or applicants on the DOT Recovery Act website within 3 business days after receipt of such information. Additional information on the process for posting such communications will follow. In the interim period while the electronic form is being developed, please use the attached Sample Form A.

### **Communications Regarding General Recovery Act Policy Issues**

- DOT officials **may** communicate orally with registered lobbyists regarding general Recovery Act policy issues, but must document and publicly post such communications. Such oral communication **may not** touch on particular projects, applications, or applicants for Recovery Act funding.
- DOT officials **must** contemporaneously, or immediately after the oral communication, document in writing the date and time of the contact on policy issues, the names of the registered lobbyists and the DOT officials involved, and a short description of the substance of the communication. A template will be provided at an internal SharePoint site that is being developed. Each Operating Administration/OST office will need to ensure access to this site. Additional information will follow. In the interim period while the electronic form is being developed, please use the attached Sample Form B.

### **Documentation of All Scheduled Meetings Concerning DOT’s Discretionary Grant Programs**

- Please note that scheduled meetings (telephonic or in-person) with *any* individual or entity (not a registered lobbyist) regarding a DOT discretionary grant program concerning any particular project, application, or applicant under the Recovery Act

**must be** timely documented. A template will be provided at an internal SharePoint site that is being developed. Each Operating Administration/OST office will need to ensure access to this site. Additional information will follow. In the interim period while the electronic form is being developed, please use the attached Sample Form C.

- The DOT discretionary grant programs subject to this documentation requirement are: the OST Discretionary Grant Program, MARAD's Shipyard Discretionary Grant Program, FHWA's Ferry Boat Discretionary Grant Program, FAA's Airport Improvement Program Discretionary Grant Program, FRA's High Speed Rail Program, and FTA's Transit Investments for the Greenhouse Gas and Energy Reduction Grants and Capital Investment Grants.

### **Training and Additional Guidance**

We are currently developing more detailed implementation guidance concerning the other sections of the President's Memorandum, which will be issued shortly. The Office of General Counsel plans to conduct training of employees in the Office of the Secretary regarding the requirements of the President's Memorandum and requests that the Chief Counsel Offices train their respective Operating Administration employees. For questions regarding the implementation of the President's Memorandum, please contact Terence Carlson, Deputy Assistant General Counsel for General Law at x69152 or Bonnie Angermann, Attorney-Advisor, at x69166 of the Office of General Law, Office of General Counsel, or the appropriate Office of Chief Counsel promptly.

Please distribute this memorandum to all employees who may be contacted regarding Recovery Act issues in Headquarters and/or the Field.

Attachments

**Public Posting of Written Communication From A Registered Lobbyist  
Concerning the Commitment, Obligation, Or Expenditure of Funds  
Under the Recovery Act  
For Particular Projects, Applications, or Applicants**

This public posting is made pursuant to Section 3(c) of the Presidential Memorandum For Heads of Executive Departments and Agencies dated March 20, 2009, entitled *Ensuring Responsible Spending of Recovery Act Funds*.

Under the President's memorandum, all written communications from a registered lobbyist concerning the commitment, obligation, or expenditure of funds under the American Recovery and Reinvestment Act ("Recovery Act") for particular projects, applications, or applicants ("written communication") must be posted to the agency's Recovery webpage within three (3) business days.

On \_\_\_\_\_, DOT received the attached written communication from a registered lobbyist concerning the commitment, obligation, or expenditure of funds under the Recovery Act for particular projects, applications, or applicants ("written communication").

Attachments: Written communication

# Documentation of Oral Communications From Registered Lobbyist Concerning General Recovery Act Policy Issues

This notification is made pursuant to Sections 3(d)-(e) of the Presidential Memorandum For Heads of Executive Departments and Agencies dated March 20, 2009, entitled *Ensuring Responsible Spending of Recovery Act Funds*. At the outset of the oral communications concerning the American Recovery and Reinvestment Act ("Recovery Act"), individuals or parties appearing or communicating were asked if any of them were lobbyists registered under the Lobbying Disclosure Act. The registered lobbyists appearing or communicating were informed that DOT officials would discuss general Recovery Act policy issues only and that DOT employees would have no oral communications concerning particular projects, applications, or applicants for funding under the Recovery Act. The registered lobbyists were informed that they could provide written communications concerning particular projects, applications, or applicants for funding under the Recovery Act, which we would publicly post on the DOT Recovery Act website.

Date	Time (start to end)	Registered Lobbyists (name and employer)	DOT Employees (name, title, and operating administration)
<b>Short Description of Substance of Oral Communications</b>			
When scheduled (if unscheduled, state "Unscheduled")			
In-person or telephonic communication (if other, describe)			
DOT Mode and Program			
Subjects raised during oral communications and concise summary			
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# Recovery Act

## Summary of Meetings with Interested Organizations/

[illegible]